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In re Application of :
BRUGGENDICK et al. :
Application No.: 09/856,342 :
PCT No.: PCT/EP99/08040 : DECISION
Int. Filing Date: 22 October 1999 :
Priority Date: 18 November 1998 :
Attorney Docket No.: AZ.2673 :
For: METHOD OF BURNING A NITROGEN- :
CONTAINING FUEL :

This is a decision on applicants' "Letter" filed in the United States Patent and Trademark Office (USPTO) on 16 May 2002, which is being treated as a request for corrected filing receipt. No petition fee is required.

BACKGROUND

On 18 May 2001, applicants timely filed a request to enter into the national stage under 35 U.S.C. 371 along with the appropriate basic national filing fee, a copy of the international application, a translation of the international application, and a preliminary amendment.

On 22 June 2001, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 22 August 2001, applicants filed an executed declaration and power of attorney. The executed declaration was date stamped as received in the PTO on 23 August 2001.

On 04 September 2001, a Notification of Acceptance was issued identifying the 35 U.S.C. 371(c) date as 23 August 2001. Subsequently, an Official Filing Receipt was issued indicating a "FILING DATE" of 25 August 2001.

On 16 May 2002, applicants filed the present request to correct the filing date to 22 August 2001. The request to correct the filing date included a copy of the Customer Receipt of the United States Postal Service "Express Mail" mailing label EL436586711US.

DISCUSSION

On 16 May 2002, applicants filed the petition requesting that the filing date on the filing receipt be corrected to indicate the correct date on which the declaration was filed and on which the requirements under 35 U.S.C. 371 (c) were completed; i.e. 22 August 2001.

A copy of the Customer Copy of the "Express Mail" label No.#EL436586711US filed with the petition bears a "Date In" 22 August 2001, and further information obtained from the United States Postal Service (USPS) Express Mail database shows that "EL436586711US" was accepted by the USPS on 22 August 2001. The same "Express Mail" label number was placed on the transmittal letter for the declaration located in the application file, but was date stamped as received in the PTO on 23 August 2001.

Pursuant to 37 CFR 1.10 (c), the promptly presented evidence is convincing that the executed declaration was filed on 22 August 2001. Thus, the application met the requirements of 35 U.S.C. 371(c) and thus entered the national stage in the United States on 22 August 2001, and therefore the indication of a filing date of 25 August 2001, on the filing receipt is incorrect.

CONCLUSION

Applicants' request for issuance of a corrected filing receipt is GRANTED.

Applicants' request for the correction of the title of invention to "Method of Burning a Nitrogen-Containing Fuel" is GRANTED.

The Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) mailed on 04 September 2001 is hereby VACATED.

The application has an international filing date of 22 October 1999 under 35 U.S.C. 363 and a date of **22 August 2001** under 35 U.S.C. 371(c).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision, that is, for mailing of a NOTIFICATION OF ACCEPTANCE OF APPLICATION (Form PCT/DO/EO/903) which identifies a date of **22 August 2001** U.S.C. 371(c) and preparation and mailing of a corrected Filing Receipt in accordance with this decision, that is a filing receipt that identifies a filing date of **22 August 2001**.



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